IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 181 of 2003 (S/B)

Engineering Drawing Services Association
Irrigation Department through its
General Secretary, Bhuvan Bhaskar Pandey
R/o 25, Shubhanu, Manpur North,
Rampur Road, Haldwani, Nainital

……. Petitioner

Versus

1. State of Uttaranchal
   Through its Secretary,
   Irrigation Department,
   Dehradun and another
2. Chief Engineer / Head of Department(Karmik)
   Irrigation Department,
   Dehradun, Uttaranchal

……. Respondents

Mr. V.B.S. Negi, Advocate for the petitioner.
Mr. Paresh Tripathi, Brief holder for the State.

Hon'ble Prafulla C. Pant, J.

By means of this writ petition, moved under Article 226 of the Constitution of India, Engineering Drawing Services Association of Irrigation Department, have sought mandamus directing the respondents to pay the same pay scale admissible to Draftsman (Mechanical) on the basis of 'equal pay for equal work' to the members of the petitioner's association, who are working as Draftsmen (Civil) which is a post equivalent to the said post of Draftsmen (Mechanical).

2) Heard learned counsel for the parties and perused the record.

3) Brief facts of the case are that the members of the petitioner's association are working as Draftsmen (Civil) in Department of Irrigation and their Association is recognized vide order dated June 21, 2002 (copy Annexure- 1 to the writ petition) of the Government of Uttaranchal. In the Department of Irrigation itself, there are other Draftsmen who are working as Draftsmen (Mechanical), who find their places in the same seniority list in which the Draftsmen (Civil) have their placement. It is alleged that the duties and liabilities of the both branches of the Draftsmen are similar but the Draftsmen (Civil) are being given pay scale of Rs. 4000 – 6000 while the Draftsmen (Mechanical) are being given pay scale of Rs. 5000 – 8000. It is further alleged that the appointing authority of the Draftsmen (Civil) and Draftsmen (Mechanical) is the same i.e. Chief Engineer (Level – I) of the Department, who is also the Head of the Department. Draftsmen of both the branches are required to be qualified with a diploma from Industrial Training Institute as such their qualification is also similar. It is stated in the writ petition that several representations were made to the respondents for providing the same pay scale to the Draftsmen (Civil) but to no consequence, rather vide order dated 25.01.2003 (Annexure- 8 to the writ petition) the respondents have refused to pay the pay scale by stating that no decision is being taken in the matter even after the recommendation being made to the Government by the Chief Engineer of Department of Irrigation.

4) In the counter affidavit in its paragraphs 8 and 9, a defence has been taken by respondent Nos. 1 and 2 that the trade of Draftsmen (Civil) is different from that of Draftsmen (Mechanical). However, it is not denied that claim of Draftsmen (Civil) for enhancement of their pay scale to Rs. 5000 – 8000 is still not considered. In the counter affidavit it is stated that the writ petition is premature and not maintainable.

5) From the averments of the parties as discussed above, most of the facts appear to be admitted that Draftsmen (Civil) and Draftsmen (Mechanical) are working in Irrigation Department and they have a same / single seniority list. It is also not disputed that Draftsmen of both the branches are required to be qualified with a diploma from the Industrial Training Institute. It is also not specifically denied if their appointing authority is not the same. In other words, it is not stated if different, who are the different authorities.

6) Two grounds, which appeal this Court, are firstly, Draftsmen of both the categories are placed in a single seniority list, apart from the fact that both are required to be I.T.I. diploma holders of their respective trade and, secondly, that on 21.09.2002, the Chief Engineer and Head of the Department of Irrigation, Uttaranchal had himself sent a report to the Government recommending that the pay scale of Draftsmen (Civil) should also be Rs. 5000 – 8000, the one being drawn by Draftsmen (Mechanical). This means that the technical experts of the Department also feel that both categories of the Draftsmen have same duties and responsibilities except to the difference in the trade i.e. civil or mechanical. Considering the spirit contained in Article 39 (d) of the Constitution of India relating to 'equal pay for equal work' in view of the above facts, this Court is of the view that there is a strong case in favour of the Draftsmen (Civil), who are being represented by the petitioner's association for enhancement of their pay scale to that of the one being drawn by Draftsmen (Mechanical) as both are working in the same Department. Nay, not only this, even the Government itself in its letter dated 25th January 2003 is shy in stating that the Draftsmen (Civil) of Irrigation Department do not deserve the pay scale which is being drawn by Draftsmen (Mechanical) in

the same Department. Rather, the Government has avoided the issue by merely saying that the decision is not being taken. The said letter (copy of which is Annexure – 8 to the writ petition) further says at its end ''यथा समय इस पर विचार किया जायेगा'', that means that decision will be taken at its appropriate time, but when the time would come? If the Draftsmen start retiring one after another on superannuation, it would be of no use to them as there is no time limit mentioned in the said letter.

7) In the circumstances, for the reasons as discussed above, this Court feels that there is need to take an urgent decision on part of the Government on the recommendation made by the Chief Engineer, department of Irrigation, Uttaranchal vide his letter dated September 21, 2002 (Annexure- 5 to the writ petition). Accordingly, the writ petition is allowed with the direction that the respondents No. 1 shall take decision on the recommendation (Annexure- 5 to the petition) made by the respondent No. 2, in the light of the above observations with a period of three months from today. No order as to costs.

(Prafulla C. Pant, J.)

Dt.: 18th March, 2005
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